JEROME COUNTY, IDAHO

Citizen Submission

AN ORDINANCE ESTABLISHING COMPREHENSIVE STANDARDS — UPDATED TO INCORPORATE THE STRICTEST NATIONALLY DOCUMENTED SETBACKS, NOISE LIMITS, SOIL PROTECTIONS, DECOMMISSIONING REQUIREMENTS, AND ENFORCEMENT MECHANISMS FOR ENERGY GENERATION, STORAGE, AND TRANSMISSION PROJECTS WITHIN JEROME COUNTY, IDAHO

SOURCE NOTE: Standards in this ordinance have been calibrated to the strictest documented county-level standards in the United States, including: Mason County, KY (1-mile wind setback; 30 dBA noise); Town of Freedom, ME (35/30 dBA noise); Town of Sumner, ME (50 dBC low-frequency); Brown County, SD (4× tip height property line setback); Union County, IA Ord. 73 (7× total height); Cecil County, MD & Montgomery County, MD (Class I/II soil prohibition); Boone County, IN (150% decommissioning bond); Stutsman County, ND (1,000-ft transmission line setback); Amelia County, VA (1,000+ ft BESS setback); Cerro Gordo County, IA & Skagit County, WA (BESS prohibited on farmland); and Bannock County, ID (enacted total large-energy ban, October 2023).

WHEREAS, Jerome County is fundamentally and historically an agricultural community, with prime farmland comprising its most irreplaceable economic and natural resource; and

WHEREAS, other Idaho counties — including Bannock County, which enacted a complete ban on large-scale solar and wind projects in October 2023, and Twin Falls County, which considered a 182-day moratorium on utility-scale renewable energy — have recognized the threat these projects pose to agricultural communities; and

WHEREAS, counties across the United States have adopted standards substantially stricter than those currently proposed for Jerome County, including 1-mile residential setbacks for wind turbines (Mason County, KY; Town of Freedom, ME), complete prohibitions on energy project siting on Class I and Class II agricultural soils (Cecil County, MD; Montgomery County, MD), 150% decommissioning bonds (Boone County, IN), and 1,000-foot setbacks for major transmission lines (Stutsman County, ND); and

WHEREAS, Jerome County seeks to adopt standards that are at least as protective as the strictest standards implemented by comparable agricultural counties nationally; and

WHEREAS, the Board of County Commissioners finds it necessary to establish clear, objective, criteria-based standards with full enforcement mechanisms;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Jerome County, Idaho, as follows:

Section 1 — Purpose

This ordinance establishes a comprehensive framework for the classification, permitting, siting, construction, operation, and decommissioning of energy generation, storage, and transmission projects within unincorporated Jerome County. Standards herein have been calibrated to equal or exceed the strictest documented county-level protections found in comparable agricultural jurisdictions nationwide. It is intended to:

- Ensure that review processes and permit requirements are proportional to the scale, purpose, and potential impact of each project;
- Permanently protect Class I and Class II agricultural soils, which are categorically prohibited from energy project siting under this ordinance;
- Protect active farmland, groundwater resources, and irrigation infrastructure from permanent or long-term impairment;
- Preserve the rural character and property values of Jerome County and the rights of adjacent landowners;
- Establish objective, measurable, legally defensible standards so that applicants, residents, and decision-makers understand the criteria for approval, denial, and ongoing compliance;
- Provide guaranteed public notice and participation rights for all residents within the impact area of proposed projects;
- Ensure that all costs of energy development — including environmental review, infrastructure impacts, and eventual decommissioning — are borne entirely by applicants;
- Prevent incremental or piecemeal project expansion designed to avoid higher-tier review requirements.

Section 2 — Definitions

As used in this ordinance, the following terms shall have the meanings set forth below. Where a term is not defined, the most protective interpretation consistent with the purposes of this ordinance shall apply.

Term	Definition
Agrivoltaic System	A solar energy system where crops, grazing livestock, or active agricultural operations continue beneath or between solar panels as the PRIMARY land use, verified annually. Agrivoltaic systems may be exempt from certain Class II soil restrictions under Section 4.1 if agricultural use is demonstrably primary.
Battery Energy Storage System (BESS)	Any facility storing electrical energy in batteries for later discharge, including containerized battery units, cooling, fire suppression, and supporting electrical infrastructure. Any BESS exceeding 1 MWh in capacity is an Energy Project subject to this

Term	Definition
	ordinance. BESS facilities are prohibited on agricultural-zoned land.
Class I and Class II Soils	Land classified as USDA NRCS Land Capability Class I or Class II in the most current NRCS soil survey for Jerome County. Class I and Class II soils constitute the highest-quality prime farmland and are categorically prohibited from energy project siting under this ordinance, regardless of tier.
Commercial Export Project	Any energy project where the primary purpose is the sale of electricity to regional grid operators, utilities, or off-county purchasers rather than on-site or local consumption.
Decommissioning	The removal of all energy project structures, equipment, foundations, underground infrastructure, cabling, and associated facilities, and restoration of the land to its pre-project agricultural or natural condition, including topsoil restoration, elimination of compaction, and re-establishment of native or agricultural vegetation.
Energy Project	Any facility, structure, system, or combination of systems designed to generate, store, convert, or transmit electrical or thermal energy, including but not limited to: solar photovoltaic arrays, concentrated solar facilities, wind turbines, battery energy storage systems, transmission lines, substations, switching stations, hydrogen production or storage facilities, and associated infrastructure. Excludes Tier 1-qualifying residential and agricultural systems.
Groundwater Impact Area	The area within 2,000 feet of a proposed project footprint, or within the capture zone of any existing irrigation well potentially affected by the project, whichever is larger.
Hub Height	The distance from the ground surface to the center of a wind turbine's rotor hub.
Incremental Expansion	Any modification, addition, or expansion of an approved project that, when considered together with all prior modifications and the original project, would meet or exceed the thresholds for a higher permit tier.
Project Footprint	The total land area disturbed, fenced, cleared, graded, paved, occupied, leased, or encumbered by easement for the purposes of an energy project, including all panels, turbines, substations, BESS, access roads, laydown areas, setback buffers, and associated facilities. Easements are included in full.
Related Entities	Any two or more persons or entities sharing common ownership, common control, common financing, common project management, common corporate officers or directors, or any other indicia of common enterprise as determined by the Zoning Administrator.
Setback	The minimum horizontal distance required between a project component (measured from the outermost edge of the component, panel, turbine base, fence, or enclosure) and the

Term	Definition
	nearest point of the specified reference feature.
Shadow Flicker	The periodic, repetitive shadow cast by rotating wind turbine blades on a surface (such as a window, wall, or occupied area), expressed as hours per year or minutes per day at a specified receptor location.
Substation	An electrical facility used to transform voltage levels or switch circuits, including all transformers, switchgear, control buildings, and fencing. Any substation with transformer capacity exceeding 1 MVA is subject to this ordinance.
Tip Height	The maximum distance from the ground surface to the highest point reached by any part of a wind turbine blade during rotation.
Transmission Line	Any overhead or underground conductor or cable system used to transport electricity at voltages of 69 kV or greater, or any line built exclusively to carry output from an energy project to an interconnection point or substation.
General Welfare	The collective physical, economic, social, and environmental well-being of Jerome County residents, property owners, and the broader community, including but not limited to: (1) preservation of prime agricultural land and the long-term productivity of the agricultural economy; (2) protection of the property values and economic interests of non-participating landowners; (3) maintenance of community character, rural identity, and quality of life; (4) safeguarding of water resources, groundwater, and irrigation infrastructure; (5) protection of public health and safety from noise, electromagnetic fields, fire risk, chemical hazards, and other operational impacts; (6) protection of the right of adjacent property owners to the quiet enjoyment of their land; and (7) preservation of Jerome County's long-term food production capacity. Any documented adverse impact on any component of general welfare constitutes an independently sufficient basis for denial of a conditional use permit. Increased tax revenue or economic activity to the county does not outweigh or offset adverse impacts on the general welfare of individual residents or non-participating landowners.
Community Character	The predominant visual, social, economic, and cultural qualities of the surrounding area as experienced by residents, landowners, and visitors, including: the rural and agricultural landscape; open space and unobstructed sight lines; working farms, ranches, and associated infrastructure; low building scale relative to the landscape; and the absence of utility-scale industrial facilities. Community character is a component of the General Welfare and an independently cognizable interest in CUP proceedings.
Agricultural Heritage and Character	The multi-generational farming tradition, rural lifestyle, agricultural land use patterns, and agricultural economic identity of Jerome County, as reflected in its history, its adopted Comprehensive Plan, and the prevailing land use patterns of its unincorporated areas. Agricultural heritage and character are components of the General Welfare and shall be given

Term	Definition
	substantial weight in all CUP proceedings.
Property Value Diminishment	Any documented or objectively demonstrated projected decrease in the market value, assessed value, appraised value, or functional use value of any non-participating parcel, caused by the proximity, presence, physical characteristics, operations, noise, visual impact, electromagnetic effects, shadow flicker, or other characteristics of an energy project. Property value diminishment of any non-participating parcel is an independently sufficient basis for denial of a CUP under this ordinance. No applicant may defeat a property value finding by asserting that diminishment is speculative, unproven, or only one factor among many. The Board shall not balance projected property value diminishment against project benefits; diminishment of a non-participating owner's property value is an independent disqualifying harm.
Neighborhood Compatibility	The relationship between a proposed project and the established character, use, and value of nearby properties. A project is incompatible with the neighborhood if it: (1) generates noise, light, shadow flicker, electromagnetic fields, or visual impacts that materially alter the experience of adjacent property owners; (2) causes or is projected to cause diminishment of the market value of any non-participating parcel; (3) disrupts established agricultural operations or lease arrangements; or (4) introduces industrial-scale activity into a predominantly agricultural or residential context. Lack of neighborhood compatibility is an independently sufficient basis for CUP denial.
Non-Participating Parcel	Any parcel of real property that is not part of the project footprint and whose owner has not entered into a signed agreement with the applicant consenting to the project's impacts. Owners of non-participating parcels are entitled to the full protections of this ordinance, including all setback, noise, visual impact, and property value protections.

Section 3 — Classification Tiers

All energy projects within unincorporated Jerome County shall be classified into one of three tiers. Where a project meets the threshold of more than one tier, the higher tier governs. Classification is based on the project as a whole, including all phases, expansions, and associated infrastructure planned or reasonably foreseeable at the time of application.

Tier 1 — Exempt Administrative Permit

Size Thresholds	Generation capacity of 50 kW or less AND project footprint of 2 acres or less AND no off-site transmission infrastructure required
Primary Purpose	On-site consumption for agricultural, residential, or small commercial use. Incidental net metering permitted up to 100% of annual on-site use.
Typical Systems	Rooftop or ground-mounted solar serving a single building, single farm wind turbine, on-site battery backup (under 1 MWh)
Restriction — Class I/II Soils	No Tier 1 project may be sited on Class I or Class II soils, consistent with Cecil County, MD and Montgomery County, MD standards. Projects proposed on Class I or II soils require at minimum Tier 2 review.
Review Process	Administrative permit only — issued by county staff within 30 days of complete application. No public hearing. No environmental assessment. Standard setbacks apply.

Tier 2 — Conditional Use Permit (CUP), Standard Review

A project is Tier 2 if it meets ALL of the following and NONE of the Tier 3 thresholds:

Size Thresholds	Generation capacity between 51 kW and 25 MW AND project footprint between 2 and 160 acres AND no new off-site transmission lines exceeding 5 miles
Restriction — Class I/II Soils	PROHIBITED. No Tier 2 project may be sited on, or have its project footprint encumber, any Class I or Class II soils. No exceptions, no waivers. This prohibition applies regardless of agricultural easements or conservation agreements. (Source: Cecil County, MD; Montgomery County, MD)
Review Process	CUP required. Mandatory public hearing before P&Z Commission with minimum 21-day advance written notice to all property owners within 1.5 miles of project boundary. Site plan review per Section 5. Decision within 90 days. Commissioner approval required for projects exceeding 80 acres.
Financial Assurance	Decommissioning bond at minimum 150% of the County-verified estimated removal and restoration cost, posted before any building permit is issued, updated every 3 years. (Source: Boone County, IN —

	highest documented county bond requirement)
BESS Prohibition	BESS facilities are prohibited in agricultural zones. (Source: Cerro Gordo County, IA; Skagit County, WA)

Tier 3 — Conditional Use Permit (CUP), Full Review

Any ONE of the following triggers mandatory Tier 3 review:

- Generation capacity exceeding 25 MW; OR
- Project footprint exceeding 160 acres; OR
- Any project requiring new transmission lines exceeding 5 miles within the county; OR
- Any project with easements, leases, or encumbrances on 10 or more separate parcels; OR
- Any project that, when aggregated with other projects by the same applicant or related entities within the prior 5 years, would cumulatively exceed any of the above thresholds.

Restriction — Class I/II Soils	ABSOLUTELY PROHIBITED. No Tier 3 project may be sited on, or have any portion of its project footprint encumber, any Class I or Class II soils. No exceptions, no variances, no waivers. This is a categorical prohibition with no administrative override. (Source: Cecil County, MD; Montgomery County, MD)
Restriction — Agricultural Zones	Tier 3 BESS and standalone substation facilities are prohibited in agricultural zones. Wind and solar Tier 3 projects in agricultural zones require an affirmative finding that the project is an agricultural support use serving primarily the host parcel — a finding that commercial export projects cannot satisfy.
Review Process	Full Environmental Impact Assessment (EIA) — county-commissioned, applicant-funded, by County-selected qualified professional. Two mandatory public hearings: one in the project area (within 1 mile), one at county seat. Minimum 21-day advance written notice to all property owners within 3 miles of project boundary. 180-day review period. Full Board majority vote required.
Financial Assurance	Decommissioning trust fund at minimum 150% of the County-verified estimated removal and restoration cost, established before any land disturbance permit, updated every 2 years by County-commissioned appraisal at applicant's expense. Agricultural soil restoration cost must be separately calculated and included. (Source: Boone County, IN at 150%; updated more frequently than any documented standard)
Interagency Coordination	Mandatory: IDWR, IDEQ, NRCS, BLM (where applicable), all irrigation districts within 2 miles.

Section 4 — Objective Impact Standards

All energy projects shall be evaluated against the following standards. For Tier 1 projects, the standards are minimum administrative requirements. For Tier 2 and Tier 3 projects, these are mandatory findings that must be affirmatively satisfied. Standards have been calibrated to equal or exceed the strictest documented county-level standards in comparable agricultural jurisdictions. All citations are to publicly available county ordinances.

4.1 — Agricultural Land and Soil Protection

The following protections apply categorically. No CUP process, no variance, and no administrative waiver may override the Class I/II soil prohibition. This absolute prohibition is consistent with the approach adopted by Cecil County, Maryland and Montgomery County, Maryland.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Class I Soil — Energy Project Siting	PROHIBITED — No exceptions (Cecil County MD; Montgomery County MD)	PROHIBITED — No exceptions, no waivers, no variances (Cecil County MD; Montgomery County MD)	ABSOLUTELY PROHIBITED. No part of any Tier 3 project footprint, including access roads, substations, or laydown areas, may be sited on Class I soils. (Cecil County MD; Montgomery County MD)
Class II Soil — Energy Project Siting	PROHIBITED — No exceptions	PROHIBITED — No exceptions, no waivers. Agrivoltaic systems where agriculture is demonstrably primary use are exempt (Cecil County MD; Montgomery County MD)	ABSOLUTELY PROHIBITED, including access roads and substations. Agrivoltaic exemption applies only where crops are the primary use verified by annual production data.
Agricultural Soil Assessment	Not required	NRCS soil classification map for entire footprint and 500-ft buffer; professional soils report required for any disturbance exceeding 10 acres	Full NRCS-reviewed agricultural soils report plus NRCS field verification for entire footprint and 1,000-ft buffer; applicant pays for NRCS consultation
Topsoil Preservation	Standard grading rules	All disturbed soils stripped, stockpiled, and replaced per approved soil	Same as Tier 2 plus soil compaction remediation plan; post-decommission

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		management plan; no mixing of topsoil with subsoil	topsoil restoration bond required
Min. Setback — Active Irrigated Cropland	50 ft	200 ft from boundary of active irrigated cropland on adjacent non-participating parcels	500 ft from boundary of active irrigated cropland on adjacent non-participating parcels

4.2 — Setbacks

Setbacks are measured from the outermost edge of any project component to the nearest point of the specified reference feature. All setbacks are minimums; conditions of approval may require greater distances. Wind turbine setbacks from residences and property lines reflect standards adopted by Mason County, KY; Town of Freedom, ME; Brown County, SD; and Union County, IA Ordinance #73.

4.2A — Solar and BESS Setbacks

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Residential Structure — Solar Arrays	100 ft	500 ft from any existing residence on non-participating parcel (Hamilton County IL)	1,000 ft from any existing residence on non-participating parcel
Residential Structure — BESS Facilities	100 ft	500 ft from any existing residence	1,500 ft from any existing residence (above Rancho Cucamonga CA's 1,000 ft; Amelia County VA adopted 5,000 ft — this standard is intermediate and defensible)
Property Line — Non-Participating (Solar)	Standard zoning setbacks	100 ft	200 ft
Property Line — Non-Participating (BESS)	100 ft	150 ft	300 ft
Public Road Right-of-Way	Standard zoning setbacks	100 ft	200 ft
Active Irrigation Well	100 ft	500 ft	1,500 ft
Irrigation Canal, Lateral, or Drain	50 ft	200 ft	500 ft
School, Church, or Community Facility	100 ft	1,000 ft	2,640 ft (½ mile)

4.2B — Wind Turbine Setbacks

Wind turbine setbacks incorporate the strictest documented standards from comparable agricultural counties. The 1-mile residential setback is adopted from Mason County, KY and the Town of Freedom, ME. The 7x-height-or-4x-tip-height property line standard is derived from Union County, IA Ordinance #73 and Brown County, SD.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Residential Structure — Non-Participating	N/A (no utility turbines in Tier 1)	2,640 ft (½ mile) OR 5× total height, whichever is greater	5,280 ft (1 MILE) OR 7× total height, whichever is greater (Mason County KY; Town of Freedom ME; Union County IA Ord. 73)
Property Line — Non-Participating Parcel	N/A	2× tip height	4× tip height from any non-participating property line (Brown County SD)
Property Line — Participating Parcel	N/A	1× tip height (may be waived in writing by landowner)	1.5× tip height (may be reduced to 1× tip height by recorded written waiver)
Public Road Right-of-Way	N/A	1.5× total height	1.5× total height (absolute minimum; conditions of approval may require more)
Irrigation Canal or Lateral	N/A	500 ft	750 ft
Active Irrigation Well	N/A	750 ft	1,500 ft
School, Church, or Community Facility	N/A	1 mile	1 mile (absolute minimum)

4.2C — Transmission Line Setbacks

Transmission line setbacks are calibrated to Stutsman County, ND (1,000 ft for lines ≥115 kV) and extrapolated upward for higher-voltage lines. Homer and Corwin Townships, ND adopted 2,600-ft setbacks.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
New Transmission Line (69–114 kV)	N/A	300 ft from any residence	500 ft from any residence on non-participating parcel
New Transmission Line (115–229 kV)	N/A	500 ft from any residence	1,000 ft from any residence on non-participating parcel

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
			(Stutsman County ND)
New Transmission Line (≥230 kV)	N/A	750 ft from any residence	1,320 ft (¼ mile) from any residence on non-participating parcel
Transmission Line from Property Line	N/A	150 ft	300 ft from any non-participating property line
Transmission Line from Irrigation Infrastructure	N/A	200 ft	500 ft from any canal, lateral, or irrigation well

4.3 — Noise Standards

Noise standards are calibrated to the strictest documented county-level standards: daytime 35 dBA and nighttime 30 dBA from the Town of Freedom, ME and Mason County, KY; 50 dBC low-frequency limit from the Town of Sumner, ME. These are A-weighted (dBA) and C-weighted (dBC) measurements at the property line of non-participating parcels.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Maximum Noise — Daytime (7am–10pm) at Property Line	50 dBA Leq	40 dBA Leq (more protective than standard; reflects community agricultural character)	35 dBA Leq (Town of Freedom ME; Town of Johnson VT; reflects strictest U.S. county standard)
Maximum Noise — Nighttime (10pm–7am) at Property Line	45 dBA Leq	35 dBA Leq	30 dBA Leq (Mason County KY; Town of Freedom ME — strictest U.S. county standard)
Low-Frequency Noise — C-Weighted (Wind Turbines)	N/A	60 dBC at nearest non-participating residence	50 dBC at nearest non-participating residence (Town of Sumner ME — strictest U.S. county standard)
Shadow Flicker — Maximum Annual (Wind Turbines)	N/A	20 hours per year at any occupied building on non-participating parcel	30 hours per year at any occupied building on non-participating parcel (New Hampshire OEP model; North Carolina standard; national best practice)
Shadow Flicker — Maximum Daily (Wind Turbines)	N/A	20 minutes per day at any occupied	30 minutes per day at any occupied

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		building on non-participating parcel	building on non-participating parcel
Pre-Construction Noise Study	Not required	Required; post-construction compliance measurement within 90 days of operational start	Required; post-construction measurement within 90 days; annual monitoring report for first 5 years; reports filed with Zoning Administrator
Shadow Flicker Modeling	Not required	Required for all wind projects; modeling report submitted with CUP application	Required; annual compliance report for 5 years; automatic shutdown system required for any turbine exceeding daily limit

4.4 — Visual Impact

Panel height limit of 15 feet reflects the strictest documented county standard (Cecil County, MD). Vegetative screening buffers exceed typical county requirements.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Solar Panel Height — Maximum Above Grade	15 ft (Cecil County MD)	15 ft (Cecil County MD)	15 ft (Cecil County MD)
Wind Turbine Total Height — Maximum	N/A (no utility turbines)	200 ft total height	No absolute limit; visual impact study with photo simulations from all public roads within 3 miles required
Vegetative Screening Buffer — Solar Facilities	Not required	30 ft minimum perimeter buffer; native species; visible from any public road or residence within 500 ft	60 ft minimum perimeter buffer on all sides; native species required; 5-year establishment guarantee at applicant's expense
Glare Impact Analysis	Not required	Required; anti-reflective coating on all panels required where glare impacts are identified	Required; photo-simulation analysis from all identified viewpoints; anti-reflective coating mandatory for all panels
Facility Lighting	Standard code	No uplighting; full-cutoff, downward-	Same as Tier 2; comprehensive

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		directed, motion-activated security lighting only	lighting plan required as part of CUP application; no lighting visible from non-participating residences

4.5 — Groundwater and Irrigation Infrastructure

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Hydrogeological Study	Not required	Required for any project within 1,000 ft of an irrigation well or within 2,000 ft of a canal or lateral; licensed Idaho hydrogeologist	Required for entire groundwater impact area; County selects hydrogeologist from approved list; applicant pays
Stormwater Management	Standard grading permit	Full SWPPP required; no increase in off-site stormwater discharge volume or rate	SWPPP required; must demonstrate no change in drainage patterns or flow rates to adjacent irrigated lands; post-construction monitoring for 3 years
Irrigation District Consultation	Not required	Written consultation with any irrigation district within 1.5 miles; district comments included in record	Formal written agreement with any irrigation district within 2 miles required before CUP issuance; district must concur or objection must be addressed
Contamination Prevention (BESS)	N/A	Secondary containment for all battery and chemical storage; spill response plan; annual inspection	Same as Tier 2; groundwater monitoring wells required downgradient of facility; annual water quality reports

4.6 — Traffic and Road Infrastructure

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Traffic Impact Study	Not required	Required if	Required for all Tier

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		construction traffic exceeds 50 one-way trips/day on any county road	3 projects; must address all county roads within 5 miles of primary access route
Road Use and Restoration Agreement	Not required	Required for all haul routes on county roads; pre-construction road assessment; post-construction repair bond equal to County Engineer's cost estimate	Same as Tier 2; applicant must fund bridge and culvert upgrades required for transport route; restoration bond set by County Engineer
Oversize / Overweight Loads	Standard permits	Route plan submitted 30 days before transport; applicant responsible for all damages	Same as Tier 2; applicant funds any infrastructure improvements needed on transport route

4.7 — Fire Safety and Emergency Response

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Fire Safety Plan	Standard building code	Required for any BESS; must include suppression system, evacuation zones, local fire district coordination and approval	Full fire and emergency response plan required; must be approved by local fire district before CUP issuance; annual review and update required
Emergency Access	Standard	Two points of vehicular access required for projects exceeding 40 acres; gates accommodate emergency vehicles at all times	Two all-weather paved access routes required; emergency access gates monitored 24/7
Hazardous Materials (BESS)	Standard	Electrolyte and chemical inventory required; emergency contacts posted; annual inspection	Full HAZMAT inventory and emergency notification protocol; coordination with county emergency management; annual third-party inspection
BESS — Fire Suppression System	Basic code	Automatic fire suppression	Same as Tier 2; independent third-

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		required; air-aspirating or radiant energy-sensing detection required (NFPA 855)	party fire risk analysis required as part of CUP application; suppression system tested annually

4.8 — Height and Structural Standards

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Solar Panel Height	15 ft max above grade (Cecil County MD)	15 ft max above grade (Cecil County MD)	15 ft max above grade (Cecil County MD)
Substation Structure Height	N/A	35 ft maximum	35 ft maximum; 100 ft setback from all property lines
BESS Container Height	12 ft maximum	12 ft maximum	16 ft maximum; must comply with all fire safety setbacks in Section 4.2
Wind Turbine Property Line Setback	N/A	2× tip height from property line	4× tip height from property line (Brown County SD — documented strictest standard)

4.9 — Economic Impact, Property Value, and Community Character

Property value, neighborhood compatibility, and community character are cognizable, independently sufficient bases for CUP denial under this ordinance. All standards below apply to non-participating parcels as defined in Section 2. Applicants bear the burden of affirmatively demonstrating compliance with each criterion.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Property Value Impact Study	Not required	Required for any Tier 2 project with any residential or agricultural structure within 1 mile; independent MAI-certified appraisal assessing projected impact on market value of all non-participating parcels within one-half (½) mile; County reviews	Required for all Tier 3 projects; independent MAI-certified appraisal covering all non-participating parcels within 1 mile; County selects appraiser from approved list, applicant funds cost; appraisal updated at mid-construction and at

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		methodology	operational commissioning
Property Value Diminishment Threshold — Adjacent Parcels	N/A	No projected diminishment of market value of any adjacent non-participating residential parcel; no projected diminishment exceeding 5% of market value of any adjacent non-participating agricultural parcel	No projected diminishment of market value of any non-participating parcel within ½ mile; compliance must be demonstrated by the applicant's funded appraisal and affirmed by County's independent review
Property Value Diminishment — Independently Sufficient Denial Basis	N/A	Any projected diminishment of market value of any adjacent non-participating parcel is independently sufficient grounds for denial, without balancing against other project attributes	Any projected diminishment of market value of any non-participating parcel within ½ mile is independently sufficient grounds for denial. No offsetting analysis, tax benefit argument, or community benefit assertion may be weighed against a documented property value harm to a non-participating owner.
Agricultural Lease and Income Impact	Not required	Applicant shall provide written assessment of impact of project on existing agricultural leases, crop production, grazing, and farm income on non-participating parcels within ½ mile	Full agricultural economic impact study quantifying effect on farm income, crop acreage, lease rates, and irrigated land productivity within 1 mile; prepared by a licensed agricultural economist, at applicant's expense
Community Character Compatibility Assessment	Not required	Visual impact assessment from minimum 5 public road viewpoints demonstrating compatibility with the agricultural and	Comprehensive community character assessment from minimum 10 viewpoints including all

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
		rural character of the area, as defined in Section 2	occupied residences within ¼ mile; narrative analysis of consistency with Jerome County Comprehensive Plan character goals; independent peer review funded by applicant
Agricultural Heritage Impact Statement	Not required	Narrative statement describing how the project is compatible with, or does not detract from, the agricultural heritage and character of Jerome County, as defined in Section 2	Formal Agricultural Heritage Impact Statement submitted with Tier 3 CUP application; reviewed by the Board as part of required findings; public testimony specifically on community character and heritage impacts is required at both mandatory hearings
Cumulative Economic and Character Impact	Not required	Not required for Tier 2	Assessment of cumulative economic and character impacts of all related projects by the same applicant or related entities within 5 miles, including aggregate loss of agricultural land, aggregate property value impact, and cumulative infrastructure burden

4.10 — Public Health, Safety, and General Welfare

The general welfare of Jerome County residents and non-participating landowners is a primary consideration in all CUP proceedings. Adverse impacts on any component of the general welfare, as defined in Section 2, constitute independently sufficient grounds for denial. No finding that other components of the general welfare are satisfied may be used to offset or excuse a demonstrated adverse impact on any individual component.

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Electromagnetic Fields (EMF) — Transmission Lines and Substations	N/A	Applicant shall submit documentation that EMF at all non-participating property lines will remain at or below FCC general population exposure limits; 300 ft minimum clearance from any occupied structure on a non-participating parcel	Independent EMF study by qualified engineer, funded by applicant; EMF levels at all non-participating property lines modeled and documented below applicable FCC/ICNIRP standards; biennial post-construction monitoring for 10 years; results filed with County annually
Air Quality — Construction and Operations	Dust control plan per standard county requirements	Construction dust control plan required; IDEQ notification for any project exceeding applicable thresholds; applicant responsible for all construction-phase PM10 and PM2.5 exceedances attributable to project	Full air quality impact assessment for construction and operational phases; ongoing PM10/PM2.5 monitoring during construction; quarterly reports filed with IDEQ and County; operational monitoring for 2 years post-commissioning; corrective action plan required if standards exceeded
BESS — Health Risk and Thermal Runaway Assessment	Not required for Tier 1 (under 1 MWh BESS)	Required for any BESS within 1,000 ft of any non-participating residence; thermal runaway gas dispersion modeling; toxic gas concentration modeling at property lines; results must demonstrate no health risk at any residence on a non-participating parcel	Full independent health risk assessment for any BESS; thermal runaway gas dispersion modeling for worst-case scenario; toxic gas (HF, CO, VOCs) modeling at all non-participating residences within 2,640 ft (½ mile); emergency evacuation zone mapping filed with County and local fire district before any land disturbance
General Welfare — Applicant	N/A	Applicant shall	Applicant must

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
Affirmative Demonstration		submit a written General Welfare Statement demonstrating that the project will not adversely affect the general welfare of adjacent residents and the surrounding agricultural community, addressing each component of 'General Welfare' as defined in Section 2	affirmatively demonstrate net positive contribution to each component of the general welfare as defined in Section 2. A project that demonstrably harms any component of the general welfare of a non-participating landowner — including property value, agricultural operations, noise, visual impact, or quality of life — does not satisfy this standard, regardless of aggregate county-level benefits. The Board shall assess each component of general welfare independently and shall not aggregate or offset harms to individual residents against county-wide benefits.
General Welfare — Denial Without Balancing	N/A	N/A	For Tier 3 projects, the Board shall make a written finding on each component of general welfare. If any component of general welfare is found to be adversely impacted as to any non-participating landowner, the Board shall deny the CUP without balancing that impact against other components or against project benefits. This no-balancing rule for general welfare components is an express policy determination of

Impact Criterion	Tier 1 Standard	Tier 2 Standard	Tier 3 Standard
			the Board and reflects the purposes of this ordinance as set forth in Section 1.
Cumulative and Incremental Health and Welfare Impacts	Not required	Not required for Tier 2	Cumulative health and welfare impact analysis addressing all related projects by the same applicant within 5 miles; aggregate noise levels; aggregate visual impact; aggregate EMF contributions; aggregate traffic and emergency response burdens; prepared by independent consultant, funded by applicant

Section 5 — CUP Application Requirements

A complete CUP application shall include all items listed below. An incomplete application shall not be accepted. Filing an incomplete application does not vest any rights or start any review period.

5.1 — Required for All CUP Applications (Tier 2 and Tier 3)

1. Project narrative describing the proposed project, its purpose, capacity, ownership structure, all related entities, and anticipated operational life;
2. Site plan at minimum 1 inch = 200 feet showing all project components, setbacks, property lines, roads, irrigation infrastructure, and structures within 1,500 feet;
3. Legal descriptions of all parcels within the project footprint;
4. Copies of all existing or proposed lease agreements, easements, or other encumbrances;
5. NRCS soil classification map for the project footprint and 1,000-foot buffer, with a written statement confirming no Class I or Class II soils are encumbered;
6. Stormwater Pollution Prevention Plan (SWPPP);
7. Traffic impact study for any project where construction traffic exceeds 50 one-way trips/day;
8. Road use agreement or draft agreement for all county roads in the haul route;
9. Pre-construction noise study baseline; shadow flicker modeling report for all wind projects;
10. Visual impact assessment with photo simulations from at least 5 public road viewpoints;
11. Vegetative screening and landscaping plan with 5-year establishment guarantee;
12. Lighting plan;
13. Fire safety and emergency response plan submitted to and reviewed by local fire district;
14. Decommissioning plan with all removal and restoration activities, timeline, and cost certified by a licensed Idaho professional engineer;
15. Evidence of financial assurance at the required tier amount;
16. Certified list of all property owners within 1.5 miles (Tier 2) or 3 miles (Tier 3) of project boundary, with certified mail receipts or affidavits of notice;
17. Statement identifying all projects by the same applicant or related entities in Jerome County within the prior 5 years.

5.2 — Additional Requirements for Tier 3 Applications

18. Full Environmental Impact Assessment (EIA), county-commissioned, applicant-funded;
19. Agricultural impact study including crop production data, irrigation analysis, and economic impact of agricultural land conversion;
20. Full hydrogeological study by a licensed Idaho hydrogeologist;
21. Shadow flicker analysis from all public roads within 3 miles and all residences within 2 miles;
22. Interagency coordination letters from IDWR, IDEQ, NRCS, BLM, and all irrigation districts within 2 miles;
23. Decommissioning trust fund agreement with County-approved trustee, including separately calculated agricultural soil restoration cost;
24. Road improvement bond certified by County Engineer;
25. Cumulative impact analysis addressing all related projects within 5 miles.

Section 6 — CUP Decision Criteria: Required Findings

No CUP shall be approved unless the decision-making body affirmatively finds, based on substantial evidence, that each of the following criteria is met. The burden of proof is on the applicant. Failure to satisfy any single criterion is sufficient grounds for denial.

6.1 — Required Findings for All CUP Applications

Finding 1 — Comprehensive Plan Consistency:

> The proposed project is consistent with Jerome County's agricultural preservation, rural character, and land use goals. The applicant must demonstrate affirmatively, not merely assert, that no significant conflict exists.

Finding 2 — Agricultural Land Protection (Class I/II Absolute Prohibition):

> The project footprint encumbers no Class I or Class II soils, as verified by a County-reviewed NRCS soil survey. This finding is categorical — no exceptions, no variances, no administrative overrides.

Finding 3 — Compliance with Objective Standards:

> The project meets all applicable standards in Section 4, including all setbacks, noise limits, height restrictions, and shadow flicker limits. Where a standard requires a study or measurement, the study has been completed and the results demonstrate compliance.

Finding 4 — Adequate Infrastructure:

> County roads, bridges, and infrastructure can accommodate construction and operational traffic without significant degradation, or the applicant has committed to fund all required improvements with posted bond.

Finding 5 — Groundwater and Irrigation Protection:

> The project will not adversely affect groundwater availability or quality, irrigation infrastructure, or water rights of existing agricultural users, as demonstrated by a hydrogeological study where required.

Finding 6 — Financial Assurance:

> Adequate financial assurance has been posted, in the required form and amount, to guarantee decommissioning and site restoration at no cost to county taxpayers or landowners, including separately calculated agricultural soil restoration cost for Tier 3 projects.

Finding 7 — Neighborhood Compatibility, Community Character, and Property Value Protection:

For Tier 2: The project will not diminish the market value, assessed value, or functional use of any adjacent non-participating parcel, and will not materially alter the agricultural or rural character of the immediate neighborhood. For Tier 3: The project will not diminish the market value, assessed value, or functional use of any non-participating parcel within one-half (½) mile of the project boundary, and is compatible with the community character and agricultural heritage of the surrounding area as defined in Section 2.

INDEPENDENTLY SUFFICIENT BASIS FOR DENIAL: Projected diminishment of the market value or functional use of any non-participating parcel is independently sufficient grounds for denial of the CUP, without regard to whether other project impacts are found to be acceptable. The Board shall not require that property value diminishment be the 'primary' or 'sole' harm, and shall not balance property value impacts against project benefits, tax revenue, or employment. An applicant may not defeat this finding by asserting that diminishment is speculative or difficult to quantify; the applicant bears the burden of demonstrating affirmatively that no diminishment will occur.

Evidence of incompatibility with community character, including visual impact testimony, agricultural disruption, and quality-of-life impacts documented by adjacent residents, constitutes independent grounds for denial without a required showing of measured property value change.

Finding 8 — Anti-Circumvention Compliance:

The project, when considered with all prior projects by the same applicant or related entities within the prior 5 years, does not exceed any Tier 3 threshold without Tier 3 review.

6.2 — Additional Required Findings for Tier 3 Applications

Finding 9 — Community Benefit and General Welfare:

The project generates a demonstrable net benefit to each component of the general welfare as defined in Section 2, including: (a) preservation or enhancement of agricultural land and the agricultural economy; (b) no diminishment of market value of any non-participating parcel within ½ mile; (c) maintenance of community character and agricultural heritage; (d) protection of water resources and irrigation infrastructure; and (e) no adverse health or safety impact on adjacent residents. Increased tax revenue, county-wide economic activity, or employment is not sufficient to establish this finding, and does not offset adverse general welfare impacts on individual non-participating landowners. The Board shall make a separate written finding on each component.

Finding 10 — Environmental Impact Acceptability and Cumulative Impact Assessment:

The EIA demonstrates that all significant adverse environmental impacts, including cumulative impacts from all related projects by the same applicant or related entities within 5 miles, have been identified and mitigated to the maximum extent feasible. Where mitigation does not reduce an impact to an acceptable level for non-participating landowners — including noise, visual impact, property value, shadow flicker, electromagnetic fields, or agricultural disruption — the impact shall be treated as unmitigated and shall constitute grounds for denial under Sections 4.9 and 4.10. The Board shall make a written finding on each significant impact category and the sufficiency of proposed mitigation.

Finding 11 — Interagency Concurrence:

All required interagency coordination has been completed and no agency with jurisdiction has identified unresolved conflicts or outstanding compliance requirements. Interagency concurrence does not satisfy or substitute for any finding required under this ordinance, including the findings on general welfare, property value, and community character.

Finding 12 — Property Value and Economic Impact Compliance (Tier 3 Only):

The applicant has demonstrated, through a County-reviewed independent appraisal, that no non-participating parcel within ½ mile of the project boundary will experience any diminishment in market value as a result of the project. If the appraisal identifies any projected diminishment, the Board shall deny the CUP. The Board shall not condition approval on post-construction monitoring as a substitute for this affirmative pre-approval finding.

Finding 13 — General Welfare No-Balancing Determination (Tier 3 Only):

The Board has assessed each component of the general welfare as defined in Section 2 and has made a written finding that no component is adversely impacted as to any non-participating landowner within the applicable notice area. Where any component is found to be adversely impacted, the Board shall deny the CUP without balancing that impact against other components or against aggregate project benefits to the county. This finding is required in addition to all other required findings and is independently necessary for approval.

Section 7 — Standard Conditions of Approval

- Compliance with all applicable federal, state, and local laws and regulations;
- Annual compliance report submitted to the County Zoning Administrator by March 1 each year, documenting operational status, incidents, current financial assurance amounts, and operator contact information;
- County staff inspection rights upon 48 hours' written notice to verify compliance;
- Any change in ownership, operator, or control must be reported within 30 days; new owner/operator assumes all permit conditions in writing before transfer;
- Financial assurance must remain in full force at all times; any lapse or reduction constitutes an immediate permit violation;
- Decommissioning must begin within 12 months of project closure or cessation of operations exceeding 12 consecutive months, and must be completed within 24 months;
- Wind turbine shadow flicker automatic shutdown systems must be operational and logged at all times; logs submitted with annual compliance report;
- BESS facilities must conduct annual third-party fire and safety inspections; reports filed with County and local fire district;
- The CUP is not transferable to projects of a different type or size than approved.

Section 8 — Public Participation Rights

8.1 — Notice Requirements

- Written notice to all property owners within 1.5 miles (Tier 2) or 3 miles (Tier 3) of project boundary, first-class mail, at least 21 days before any hearing;
- Published notice in a newspaper of general circulation in Jerome County at least 21 days before any hearing;
- Posted notice on County website and at the courthouse at least 21 days before any hearing;
- All completed CUP application materials available for public inspection at County offices and on the County website no later than 21 days before the first hearing.

8.2 — Hearing Rights

- Any person may testify at any public hearing, with equitable time limits;
- All written comments submitted before or at the hearing are included in the official record;

- The decision-making body shall issue written findings addressing all substantive comments and objections raised in the record;
- No CUP may be approved in a form materially different from what was publicly noticed without additional notice and hearing.

8.3 — Post-Approval Participation

- Any person may file a written compliance complaint with the Zoning Administrator;
- The Zoning Administrator shall respond in writing to all complaints within 30 days;
- Any person may request a hearing before the Board regarding a compliance determination.

Section 9 — Anti-Aggregation and Anti-Circumvention

9.1 — Project Aggregation

Two or more energy projects shall be considered a single project for tier classification purposes if:

26. They are owned, controlled, or financed by the same person, entity, or related entities as defined in Section 2;
27. They are located within 5 miles of each other;
28. They are constructed, operated, or proposed within 5 years of each other; AND
29. They share transmission infrastructure, access roads, substations, or interconnection points.

The County may treat separately proposed projects as a single project upon substantial evidence of a common plan of development, regardless of whether all four conditions above are met.

9.2 — Reclassification

If a project exceeds the thresholds of its approved tier at any point during construction or operation, the permit holder must:

30. Cease all work on the expanded or non-compliant scope immediately upon written notice;
31. Submit a reclassification application within 60 days;
32. Submit to the full review process for the applicable higher tier before resuming any work.

9.3 — Existing Facilities

All energy projects in existence as of the effective date are lawfully non-conforming uses. However:

33. Any expansion, modification, or upgrade that increases generation capacity, project footprint, or transmission infrastructure is treated as a new project subject to full tiered review;
34. Routine operation and maintenance not increasing capacity or footprint is permitted to continue;
35. Replacement of like-for-like equipment (same capacity, same footprint) requires only an administrative permit.

No existing facility or operator shall receive preferred treatment in the CUP process.

Section 10 — Enforcement and Penalties

10.1 — Violations

36. Commencing or continuing any project without the required permit;
37. Violating any condition of an approved CUP;
38. Submitting materially false or misleading information in an application;
39. Failing to post or maintain required financial assurance;
40. Failing to submit a required annual compliance report;
41. Failing to decommission within the required timeframe;
42. Incrementally expanding a project without reclassification;
43. Operating a BESS in an agricultural zone in violation of this ordinance.

10.2 — Enforcement Authority

The Zoning Administrator may:

44. Issue a written Notice of Violation;
45. Issue a Stop Work Order requiring immediate cessation;
46. Revoke or suspend a CUP after notice and opportunity to be heard;
47. Pursue civil penalties not to exceed $10,000 per day per violation, consistent with Idaho Code;
48. Seek injunctive relief from a court of competent jurisdiction;
49. Draw on financial assurance instruments to fund decommissioning or remediation if the permit holder fails to act.

10.3 — Inspections

The County shall conduct compliance inspections of all Tier 2 and Tier 3 projects at least once per year during construction and at least once every 2 years during

operation (updated from standard 3-year cycle). Inspection costs for Tier 3 projects are borne by the permit holder.

Section 11 — Appeals

Any person aggrieved by a permit decision, reclassification determination, or enforcement action under this ordinance may appeal to the Board of County Commissioners within 28 days of the decision, consistent with Idaho Code § 67-6521. The Board shall hold a hearing within 45 days of receipt of a valid appeal. The burden of proof on appeal is on the appellant.

Section 12 — Severability

If any section, subsection, or provision of this ordinance is determined to be invalid or unconstitutional, such determination shall not affect the remaining portions, which shall remain in full force and effect. Specifically, the Class I/II soil prohibition in Section 4.1 is intended to be severable from all other provisions and shall remain in effect regardless of the validity of any other provision.

Section 13 — Effective Date and Relationship to Other Ordinances

This ordinance shall take effect upon passage and publication as required by Idaho law. To the extent any provision of this ordinance conflicts with any other provision of the Jerome County Zoning Ordinance, the more protective provision shall govern.

Passed and Approved

PASSED AND APPROVED by the Board of County Commissioners of Jerome County, Idaho.

Commissioner, District 1 _____ Date: _____

Commissioner, District 2 _____ Date: _____

Commissioner, District 3 _____ Date: _____

Jerome County Clerk — Attested _____ Date: _____